

**The Provident Bank**

Home Office  
One East Fourth Street  
Cincinnati, Ohio 45202  
513/579-2000

RECORDATION NO. 10035 Filed 1425

JAN 19 1979 -2 30 PM

INTERSTATE COMMERCE COMMISSION

RECORDATION NO. 10035 Filed 1425

JAN 19 1979 -2 30 PM

INTERSTATE COMMERCE COMMISSION

January 18, 1979

RECORDATION NO. 10035 Filed 1425

JAN 19 1979 -2 30 PM

INTERSTATE COMMERCE COMMISSION

Secretary of the  
Interstate Commerce Commission  
Washington, D.C. 20423

Gentlemen:

Enclosed for filing with respect to the sale of Two Hundred (200) "XF" 70-ton capacity railroad boxcars, specification CC-70-(E)-78, are the following documents:

(1) Conditional Sale Agreement providing for the sale of the boxcars from The Provident Bank, Agent, One East Fourth Street, Cincinnati, Ohio 45202, to BBT, a Nevada limited partnership, One East First Street, Suite 1203, Reno, Nevada 89501;

(2) Agency Agreement between BBT, One East First Street, Suite 1203, Reno, Nevada 89501 and Railway Freight Car Services, Inc., Owner's Agent, North Shore Towers, 269-10C Grand Central Parkway, Floral Park, New York 11005.

(3) Management Agreement between BBT, One East First Street, Suite 1203, Reno, Nevada 89501, and Columbus & Greenville Railway Company, Manager, P.O. Box 6000, Columbus, Mississippi 39701;

(4) Purchase Agreement Assignment from American Financial Corporation, One East Fourth Street, Cincinnati, Ohio 45202, to The Provident Bank, Agent, One East Fourth Street, Cincinnati, Ohio 45202; and

(5) Agency and Management Agreement Assignment among Railway Freight Car Services, Inc., Owner's Agent, North Shore Towers, 269-10C Grand Central Parkway, Floral Park, New

9-619A110

Date JAN 19 1979

Fee \$ 200.00

Washington, D. C.

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INTERSTATE COMMERCE COMMISSION

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INTERSTATE COMMERCE COMMISSION

FEE OPERATION BR.  
I.C.C.

JAN 19 1979

RECEIVED

*William Bowers*  
*Wm Bowers*

Secretary of the  
Interstate Commerce Commission  
Page 2  
January 18, 1979

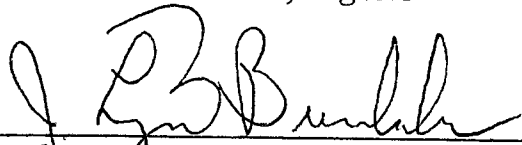
York 11005, BBT, One East First Street, Suite  
1203, Reno, Nevada 89501, and The Provident  
Bank, Agent, One East Fourth Street, Cincinnati,  
Ohio 45202.

As specified above, the railroad boxcars  
bear AAR Mechanical Specification "XF", and  
Railroad identifying marks and road numbers  
of CAGY 25,500-25,699, inclusive. Enclosed  
are three fully executed copies of the above-  
listed documents for filing with the Interstate  
Commerce Commission. I would appreciate it  
if you would return a complete stamped copy  
to Ingrid M. Olson, Morgan, Lewis & Bockius,  
18 M Street, North West, Washington, D.C.  
20036.

Very truly yours,

THE PROVIDENT BANK, Agent

BY:

  
Lynn Brewbaker, Assistant  
Vice President

? / CSA copy -  
21500 - 21699

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RECORDATION NO. .... Filed 1425

JAN 19 1979 -2 30 PM

INTERSTATE COMMERCE COMMISSION

AGENCY AND  
MANAGEMENT AGREEMENT ASSIGNMENT

DATED AS OF DECEMBER 30, 1978

FROM

RAILWAY FREIGHT CAR SERVICES, INC.  
Owner's Agent

and

BBT,  
Owner

TO

THE PROVIDENT BANK, CINCINNATI, OHIO  
AS AGENT

(COVERING 200 GENERAL PURPOSE BOX CARS)

Filed and recorded with the Interstate Commerce Commission pursuant  
to the Interstate Commerce Act on January \_\_\_\_, 1979, at \_\_\_\_\_  
Recordation Number \_\_\_\_\_.

AGENCY AND MANAGEMENT AGREEMENT ASSIGNMENT dated as of December 30, 1978, given by BBT, a Nevada limited partnership, with BIJUR TRANSPORT, INC. and APARTMENT HOUSE DECORATIVE CO., INC., as its sole General Partners (hereinafter called "Assignor") with a Consent and Acknowledgement of RAILWAY FREIGHT CAR SERVICES, INC., a New York corporation (hereinafter called "Owner's Agent"), to THE PROVIDENT BANK, as Agent (hereinafter called "Agent") for GREAT AMERICAN INSURANCE COMPANY, an Ohio corporation (hereinafter called "Lender").

WHEREAS, CONSTRUCTORA NACIONAL DE CARROS DE FERROCARRIL, S.A. (hereinafter called "Builder") and AMERICAN FINANCIAL CORPORATION, an Ohio corporation (hereinafter called "Purchaser") have entered into a purchase agreement dated as of January 4, 1979 (hereinafter called "Purchase Agreement") covering the construction, sale and delivery, on the conditions therein set forth, by the Builder of the railroad equipment described in the Purchase Agreement (said equipment being hereinafter called collectively the "Equipment" or "Units" and individually a "Unit"); the Purchaser has assigned all its rights under the Purchase Agreement to the Agent, and the Agent has agreed to purchase the Equipment for sale to the Assignor pursuant to a conditional sale agreement dated as of the date hereof (hereinafter called "Conditional Sale Agreement"); the Purchaser has assigned all its obligations under the Purchase Agreement to Cantor Fitzgerald Group, Ltd.; the Assignor has entered into an Agency Agreement dated as of the date hereof with the Owner's Agent providing for the Owner's Agent to perform certain of the terms and conditions of the Conditional Sale Agreement; and the Vendee has agreed with Columbus & Greenville Railway Company, a Mississippi Corporation (hereinafter called "Manager") to provide to the Manager the Equipment for use and management thereof pursuant to a management agreement dated as of the date hereof with Assignor (hereinafter called "Management Agreement");

WHEREAS, concurrently with execution of this Agency and Management Agreement Assignment, the Agent is acquiring the title, rights, and interests of the Builder in the Units, all upon and subject to the terms and conditions of a finance agreement (hereinafter called the "Finance Agreement") dated the date hereof among the Agent, Lender, Assignor and Owner's Agent:

NOW, THEREFORE, WITNESSETH:

That in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration paid by the Agent to the Assignor, the receipt of which is hereby acknowledged,

the execution and delivery of the Finance Agreement and the Purchase Agreement Assignment by the Agent, and the mutual covenants herein contained:

SECTION 1. The Assignor hereby assigns, transfers, and sets over unto the Agent, as security for Assignor's obligations under the Finance Agreement and the Conditional Sale Agreement, the Management Agreement and the Agency Agreement and all of its rights, powers, privileges, and remedies thereunder; provided, however, so long as no Declaration of Default (as defined in the Conditional Sale Agreement) under the Conditional Sale Agreement nor Owner Default (as defined herein) under the Management Agreement has occurred and is continuing, the Assignor is empowered to give any notice of an Event of Default under the Management Agreement to the Manager and/or to terminate said Management Agreement pursuant to its terms; and further, provided that so long as none of (i) a Declaration of Default (as defined in the Conditional Sale Agreement) under the Conditional Sale Agreement has occurred and is continuing, (ii) an Event of Default (as defined in the Management Agreement) under the Management Agreement has occurred and is continuing and (iii) an Owner Default under the Management Agreement has occurred and is continuing, the Agent will not give notice of an Event of Default under the Management Agreement to the Manager and/or terminate the Management Agreement pursuant to its terms.

SECTION 2. Anything herein contained to the contrary notwithstanding, the Assignor shall, so long as there is no existing Declaration of Default under the Conditional Sale Agreement, or Owner Default under the Management Agreement, be entitled to exercise all of its rights under the Management Agreement and Agency Agreement to enforce the obligation of the Manager and the Owner's Agent to make the payments provided for under the Management Agreement and the Agency Agreement, including the termination of the rights of the Manager under the Management Agreement; provided, however, Assignor shall not give any notice, grant any consent or enter into any alteration, addition or modification of the Management Agreement or Agency Agreement without the prior written consent of the Agent.

SECTION 3. Anything herein contained to the contrary notwithstanding, the Assignor shall remain fully liable under the Management Agreement and the Agency Agreement to perform all of the obligations assumed by it thereunder, and the Agent, its successors or assigns, shall have no obligation or liability under the Management Agreement or Agency

Agreement by reason of or arising out of this Agency and Management Agreement Assignment, nor shall the Agent, its successors, or assigns, be required or obligated in any manner to perform or fulfill any obligation of the Assignor under or pursuant to the Management Agreement or Agency Agreement, or to make any payment, or to make any inquiry as to the nature or sufficiency of any payment received by it, its successors or assigns, or to press or file any claim or to take any other action to collect or enforce the payment of any amounts which may have been assigned to it, its successors or assigns, or to which it, its successors or assigns, may have been entitled at any time or times, provided that the Agent shall have first fully informed the Assignor promptly in writing of any such matters of which it has knowledge.

SECTION 4. The rights hereby assigned include, without limitation thereto, the right of the Assignor to perform the Management Agreement and Agency Agreement at any time or from time to time and the right to receive all moneys due and to become under the Management Agreement and Agency Agreement, and such rights may be further assigned to another person or persons, in connection with the enforcement of the pledge thereof, and the obligations of the Assignor under the Management Agreement and Agency Agreement may be performed by the Agent or its successors or assigns, without releasing the Assignor therefrom provided that any subsequent assignee is a bank or trust company of the United States with assets of at least \$50,000,000.

SECTION 5. The Assignor does hereby constitute the Agent, its successors or assigns, its true and lawful attorney with full power (in the name of the Assignor or otherwise) to ask, require, demand, receive, compound, and give acquittance for and all moneys and claims for moneys due or to become due under or arising out of the Management Agreement or Agency Agreement, to draw any checks or other instruments or orders in connection therewith and to file any claims or take any action or institute any proceedings which the Agent, its successors, or assigns, may deem to be necessary or advisable in the premises, all moneys received pursuant to this Agency and Management Agreement Assignment to be applied as herewith provided, all subject, however, to the second proviso set forth in Section 1 hereof.

SECTION 6. All sums payable to the Assignor under the Management Agreement and Agency Agreement which are hereby assigned, whether as management fees, mileage charges, straight car hire payments or otherwise, shall be paid

by Other Railroads (as defined in the Management Agreement), the Owner's Agent, or the Manager directly to the Agent, its successors or assigns. All sums paid to the Agent, its successors or assigns, by Other Railroads (as defined in the Management Agreement), the Owner's Agent, or Manager by virtue of this Agency and Management Agreement Assignment shall be held or applied by the Agent, its successors or assigns, in accordance with the applicable provisions of the Finance Agreement and Conditional Sale Agreement to satisfy the obligations of the Assignor thereunder; provided, that the Agent shall promptly forward to the Assignor all sums expressly payable to the Assignor under such agreements.

SECTION 7. The Assignor agrees that any time and from time to time, upon the written request of the Agent, its successors or assigns, the Assignor will promptly and duly execute and deliver any and all such further instruments and documents as the Agent, its successors or assigns, may reasonably request in obtaining the full benefits of this Agency and Management Agreement Assignment and of the rights and powers herein granted.

SECTION 8. The Assignor does hereby warrant and represent that it has not assigned or pledged, and hereby covenants that it will not assign or pledge, so long as this Agency and Management Agreement Assignment shall remain in effect, any of its rights, title or interest in or to the Management Agreement or Agency Agreement to anyone other than the Agent, its successors or assigns and that it will not take or omit to take any action, the taking or omission of which might result in the alteration, amendment, modification, or impairment of the Management Agreement, the Agency Agreement, or this Agency and Management Agreement Assignment or of any of the rights created by any of such instruments except as expressly provided in the Management Agreement or Agency Agreement. The Assignor does hereby ratify and confirm the Management Agreement and Agency Agreement and does warrant and represent that such Management Agreement and Agency Agreement are in full force and effect as to it, and that the Assignor is not default thereunder.

SECTION 9. The terms of this Agency and Management Agreement Assignment and all the rights and obligations hereunder shall be governed by the laws of the State of New York; provided, however, that the parties shall be entitled to all the rights conferred by 49 U.S.C. 11303, such additional rights arising out of the filing, recording, or depositing of the Management Agreement, the Agency Agreement, and this Agency and Management Agreement Assignment as shall be

conferred by the laws of the several jurisdictions in which the Management Agreement, the Agency Agreement, or this Agency and Management Agreement Assignment shall be filed, recorded, or deposited, or in which any unit shall be located, and any rights arising out of the markings on the units.

SECTION 10. This Agency and Management Agreement Assignment may be executed in any number of counterparts, but the counterpart delivered to the Interstate Commerce Commission for recording and subsequently redelivered to the Agent shall be deemed to be the original counterpart and all other counterparts shall be deemed duplicates thereof. Although this Agency and Management Agreement Assignment is dated as of the date first above written for convenience, the actual date or dates of execution hereof by the parties hereto is or are, respectively, the date or dates stated in the acknowledgements hereto annexed.

SECTION 11. This Agency and Management Agreement Assignment shall take effect immediately upon the execution hereof and the powers and authorities granted to the Agent, its successors or assigns, herein, having been given for valuable consideration, are hereby declared to be irrevocable; provided, however, that when all of the Conditional Sale Indebtedness (as defined in the Conditional Sale Agreement) and all other sums payable under the Conditional Sale Agreement have been paid or discharged in accordance with the terms thereof, and all other covenants and agreements contained therein shall have been performed, all right, title and interest herein assigned shall revert to the Assignor and this Agency and Management Agreement Assignment shall terminate unless all of the Assignor's right, title and interest in and to the Equipment shall have terminated following a Declaration of Default under the Conditional Sale Agreement, in which event all of Assignor's rights, title and interest in and to the Management Agreement and Agency Agreement hereby assigned shall terminate forthwith.

SECTION 12. In the event that the Agent has actual notice of an Event of Default under the Management Agreement or the Agency Agreement, the Agent will give prompt notice to the Assignor of such Event of Default.

SECTION 13. The Agent agrees to furnish to the Assignor such information, statements and reports which the Assignor may reasonably request for the purpose of the Assignor carrying out its powers, obligations, and duties under the Management Agreement and Agency Agreement, or as will enable



the Assignor to prepare tax returns; and the Agent will make available at reasonable times for review or copying such books and records relating to the Equipment as the Assignor may reasonably request.

The Agent agrees to furnish to the Assignor copies of all notices, statements, documents, or schedules received by it under the Management Agreement, the Agency Agreement, the Agency and Management Agreement Assignment, or the Conditional Sale Agreement and the Assignor shall cause similar copies to be delivered to the Agent if received by the Assignor.

IN WITNESS WHEREOF, the parties hereto, pursuant to due corporate authority, have caused this instrument to be executed in their respective corporate names by duly authorized officials, and their respective corporate seals to be hereunto affixed and duly attested, all as of the date first above written.

BBT, Owner

BY: BIJUR TRANSPORT, INC.  
General Partner

BY: Kristina Haiken, President

Attest:

Georgia Hollison  
Secretary

BY: APARTMENT HOUSE DECORATIVE  
CO., INC.  
General Partner

BY: Kristina Haiken, President

Attest:

Georgia Hollison  
Secretary

THE PROVIDENT BANK, Agent

Mary Kathleen Meick  
Asst. Sec'y

BY:

J. Lynn Brewbaker  
J. Lynn Brewbaker, Assistant  
Vice President



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RAILWAY FREIGHT CAR SERVICES, INC.

Attest:

BY: *[Signature]*

*Regina M. Evans*

STATE OF CALIFORNIA    )  
                                      : SS:  
COUNTY OF LOS ANGELES )

BEFORE ME, this 16th day of January, 1979, the Subscriber, a Notary Public in and for said County and State personally appeared Kristina Haiker, President & Georgia of BIJUR TRANSPORT, INC. and Kristina Haiker, President & Georgia of APARTMENT HOUSE DECORATIVE CO., INC., the General Partners of BBT, a Partnership, and for themselves and as such Partners and for and on behalf of said Partnership, acknowledged that the signing and execution of the foregoing instrument is their free and voluntary act and deed, their free act and deed, as such Partners, and the free and voluntary act and deed of said Partnership.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal on the day and year aforesaid.



*Regina M. Evans*  
Notary Public

STATE OF OHIO         )  
                                      : SS.  
COUNTY OF HAMILTON )

BEFORE ME, the Subscriber, a Notary Public in and for said County and State, personally appeared J. Lynn Brewbaker, Asst. V-P, of THE PROVIDENT BANK, the corporation which executed the foregoing instrument, who acknowledged he did sign said instrument as such officer on behalf of said corporation, and by authority of its Board of

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Directors, and that the execution of said instrument is his free and voluntary act and deed individually and as such officer, and the free and voluntary act and deed of said corporation.

IN TESTIMONY WHEREOF, I have hereto subscribed my name and affixed my Notarial Seal this 18th day of Jan. 1979.



Notary Public

RICHARD SIEGEL

Notary Public, State of Ohio

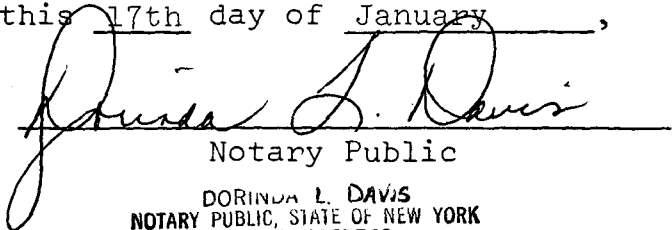
My Commission has no Expiration date

Section 147.03 R. C.

STATE OF NEW YORK     )  
                                      : SS.  
COUNTY OF NEW YORK    )

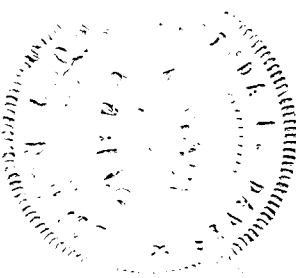
BEFORE ME, the Subscriber, a Notary Public in and for said County and State, personally appeared HARVEY POLLY, President of RAILWAY FREIGHT CAR SERVICES, INC., the corporation which executed the foregoing instrument, who acknowledged he did sign said instrument as such officer on behalf of said corporation, and by authority of its Board of Directors, and that the execution of said instrument is his free and voluntary act and deed individually and as such officer, and the free and voluntary act and deed of said corporation.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my Notarial Seal this 17th day of January, 1979.



Notary Public

DORINDA L. DAVIS  
NOTARY PUBLIC, STATE OF NEW YORK  
No. 31-4657768  
Qualified in New York County  
Commission Expires March 30, 1979



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